

AMENDED IN SENATE JUNE 28, 2011

AMENDED IN ASSEMBLY MAY 16, 2011

AMENDED IN ASSEMBLY APRIL 15, 2011

AMENDED IN ASSEMBLY MARCH 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 202**

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**Introduced by Assembly Member Brownley**

January 27, 2011

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An act to amend Sections 17557, 17557.1, 17560, and 17562 of, and to add Sections 17518.83, ~~17562.5~~, and ~~17579.5~~ *and 17562.5* to, the Government Code, relating to local educational agencies.

### LEGISLATIVE COUNSEL'S DIGEST

AB 202, as amended, Brownley. Local educational agencies: reimbursable state mandates.

Existing law establishes a procedure for local governmental agencies to file, with the Commission on State Mandates, claims for reimbursement of specified costs associated with state-mandated local programs, and sets forth the procedure for a determination by the commission for eligibility for reimbursement, appropriation, and payment of claims, including payment pursuant to the enactment of a local government claims bill, the establishment of interest accrued on claims, and the review of state mandates by the Legislative Analyst generally.

This bill would express the intent of the Legislature that statutes creating a reimbursable state mandate on school districts be periodically reviewed, and that the Legislature consider recommendations on whether

those statutes should be amended, repealed, or remain unchanged. The bill would require that, in addition to a report submitted pursuant to existing law, the Legislative Analyst review and report on each reimbursable state mandate relating to local educational agencies that meets prescribed criteria. The bill would specify the information to be provided in the review and report, and would require that the review and report be provided to the chairpersons of the Assembly Committee on Education, the Senate Committee on Education, and the fiscal committees of the Assembly and the Senate, on or before the January 1 following the adjournment of the regular session of the Legislature for which the review was made.

~~This bill would render state-mandated local programs, that apply to local educational agencies and become operative on or after January 1, 2012, inoperative with respect to a local educational agency on the date 5 years following the operative date of the state-mandated local program. The bill would require the Legislative Counsel, for each bill identified as imposing a state-mandated local program that applies to a local educational agency, to include a comment in the Legislative Counsel's digest that the state-mandated local program would become inoperative with respect to a local educational agency on the date 5 years following the operative date of the state-mandated local program, except as specified.~~

This bill would authorize a successful test claimant that is a local educational agency to designate another local educational agency to prepare and submit the proposed reimbursement parameters and guidelines to the commission, as specified. The bill would modify provisions governing the development of a draft reasonable reimbursement methodology and would provide for binding arbitration in the case of an impasse, as specified. The bill would enact other related provisions.

Existing law requires the Controller to submit various reports to the Legislature and the Department of Finance on each state mandate, including the total amount of claims paid per fiscal year ~~and, whether there are mandate deficiencies or surpluses, and a comparison of the estimated annual cost of each mandate in the preceding fiscal year to the amount determined to be payable by the state for that fiscal year.~~

This bill would also require the Controller to notify the appropriate fiscal and education policy committees of the Legislature within 30 days of the date upon which the Controller determines that the total claims for reimbursement filed in a fiscal year, on any mandate where

the test claim was filed by a local educational agency, exceed the adopted statewide estimate of costs for that mandate by more than 25%. The bill would also require the Commission on State Mandates to notify the above-referenced committees within 30 days of the date upon which a test claim is filed by a local educational agency, where that agency submits a written narrative that identifies certain information regarding a regulation alleged to contain a mandate.

*This bill would delete the requirement that the report contain a comparison of the estimated annual cost of each mandate in the preceding fiscal year to the amount determined to be payable by the state for that fiscal year.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 17518.83 is added to the Government  
2 Code, to read:  
3 17518.83. "Local educational agency" means a school district  
4 as defined in Section 17519, except that it does not include a  
5 community college district.  
6 SEC. 2. Section 17557 of the Government Code is amended  
7 to read:  
8 17557. (a) (1) If the commission determines there are costs  
9 mandated by the state pursuant to Section 17551, it shall determine  
10 the amount to be subvented to local agencies and school districts  
11 for reimbursement. In so doing it shall adopt parameters and  
12 guidelines for reimbursement of any claims relating to the statute  
13 or executive order. Except as provided in paragraph (2), the  
14 successful test claimants shall submit proposed parameters and  
15 guidelines within 30 days of adoption of a statement of decision  
16 on a test claim. The proposed parameters and guidelines may  
17 include proposed reimbursable activities that are reasonably  
18 necessary for the performance of the state-mandated program. At  
19 the request of a successful test claimant, the commission may  
20 provide for one or more extensions of this 30-day period at any  
21 time prior to its adoption of the parameters and guidelines. If  
22 proposed parameters and guidelines are not submitted within the  
23 30-day period and the commission has not granted an extension,  
24 then the commission shall notify the test claimant that the amount

1 of reimbursement the test claimant is entitled to for the first 12  
2 months of incurred costs will be reduced by 20 percent, unless the  
3 test claimant can demonstrate to the commission why an extension  
4 of the 30-day period is justified.

5 (2) If the successful test claimant is a local educational agency,  
6 the test claimant may designate another local educational agency  
7 to prepare and submit the proposed parameters and guidelines to  
8 the commission. A designation made pursuant to this paragraph  
9 shall be made in writing and submitted to the commission.

10 (b) In adopting parameters and guidelines, the commission may  
11 adopt a reasonable reimbursement methodology.

12 (c) The parameters and guidelines adopted by the commission  
13 shall specify the fiscal years for which local agencies and school  
14 districts shall be reimbursed for costs incurred. However, the  
15 commission may not specify in the parameters and guidelines any  
16 fiscal year for which payment could be provided in the annual  
17 Budget Act.

18 (d) (1) A local agency, school district, or the state may file a  
19 written request with the commission to amend the parameters or  
20 guidelines. The commission may, after public notice and hearing,  
21 amend the parameters and guidelines. A parameters and guidelines  
22 amendment submitted within 90 days of the claiming deadline for  
23 initial claims, as specified in the claiming instructions pursuant to  
24 Section 17561, shall apply to all years eligible for reimbursement  
25 as defined in the original parameters and guidelines. A parameters  
26 and guidelines amendment filed more than 90 days after the  
27 claiming deadline for initial claims, as specified in the claiming  
28 instructions pursuant to Section 17561, and on or before the  
29 claiming deadline following a fiscal year, shall establish  
30 reimbursement eligibility for that fiscal year.

31 (2) For purposes of this subdivision, the request to amend  
32 parameters and guidelines may be filed to make any of the  
33 following changes to parameters and guidelines, consistent with  
34 the statement of decision:

35 (A) Delete any reimbursable activity that has been repealed by  
36 statute or executive order after the adoption of the original or last  
37 amended parameters and guidelines.

38 (B) Update offsetting revenues and offsetting savings that apply  
39 to the mandated program and do not require a new legal finding

1 that there are no costs mandated by the state pursuant to subdivision  
2 (e) of Section 17556.

3 (C) Include a reasonable reimbursement methodology for all or  
4 some of the reimbursable activities.

5 (D) Clarify what constitutes reimbursable activities.

6 (E) Add new reimbursable activities that are reasonably  
7 necessary for the performance of the state-mandated program.

8 (F) Define what activities are not reimbursable.

9 (G) Consolidate the parameters and guidelines for two or more  
10 programs.

11 (H) Amend the boilerplate language. For purposes of this  
12 section, “boilerplate language” means the language in the  
13 parameters and guidelines that is not unique to the state-mandated  
14 program that is the subject of the parameters and guidelines.

15 (e) A test claim shall be submitted on or before June 30  
16 following a fiscal year in order to establish eligibility for  
17 reimbursement for that fiscal year. The claimant may thereafter  
18 amend the test claim at any time, but before the test claim is set  
19 for a hearing, without affecting the original filing date as long as  
20 the amendment substantially relates to the original test claim.

21 (f) In adopting parameters and guidelines, the commission shall  
22 consult with the Department of Finance, the affected state agency,  
23 the Controller, the fiscal and policy committees of the Assembly  
24 and Senate, the Legislative Analyst, and the claimants to consider  
25 a reasonable reimbursement methodology that balances accuracy  
26 with simplicity.

27 SEC. 3. Section 17557.1 of the Government Code is amended  
28 to read:

29 17557.1. (a) Notwithstanding any other provision of this part,  
30 within 30 days of the commission’s adoption of a statement of  
31 decision on a test claim, the test claimant, or a local educational  
32 agency designated pursuant to subdivision (a) of Section 17557,  
33 and the Department of Finance may notify the executive director  
34 of the commission in writing of their intent to follow the process  
35 described in this section to develop a reasonable reimbursement  
36 methodology and statewide estimate of costs for the initial claiming  
37 period and budget year for reimbursement of costs mandated by  
38 the state in accordance with the statement of decision. The letter  
39 of intent shall include the date on which the test claimant and the  
40 Department of Finance will submit a plan to ensure that costs from

1 a representative sample of eligible local agency or school district  
2 claimants are considered in the development of a reasonable  
3 reimbursement methodology.

4 (b) This plan shall also include all of the following information:

5 (1) The date on which the test claimant and Department of  
6 Finance will provide to the executive director an informational  
7 update regarding their progress in developing the reasonable  
8 reimbursement methodology.

9 (2) The date on which the test claimant and Department of  
10 Finance will submit to the executive director the draft reasonable  
11 reimbursement methodology and proposed statewide estimate of  
12 costs for the initial claiming period and budget year. This date  
13 shall be no later than 180 days after the date the letter of intent is  
14 sent by the test claimant and Department of Finance to the  
15 executive director.

16 (c) (1) At the request of a test claimant that is not a local  
17 educational agency and Department of Finance, the executive  
18 director may provide for up to four extensions of this 180-day  
19 period.

20 (2) At the request of a local educational agency test claimant,  
21 or a local educational agency designated pursuant to subdivision  
22 (a) of Section 17557, and the Department of Finance, the executive  
23 director may provide for a single extension of this 180-day period,  
24 not to exceed another 90 days.

25 (d) A test claimant that is not a local educational agency or  
26 Department of Finance may notify the executive director at any  
27 time that the claimant or Department of Finance no longer intends  
28 to develop a reasonable reimbursement methodology pursuant to  
29 this section. In this case, paragraph (2) of subdivision (a) of Section  
30 17553 and Section 17557 shall apply to the test claim. Upon receipt  
31 of this notification, the executive director shall notify the test  
32 claimant of the duty to submit proposed parameters and guidelines  
33 within 30 days under subdivision (a) of Section 17557.

34 (e) A local educational agency test claimant, or a local  
35 educational agency designated pursuant to subdivision (a) of  
36 Section 17557, and Department of Finance may jointly notify the  
37 executive director at any time that the local educational agency  
38 and Department of Finance no longer intend to develop a  
39 reasonable reimbursement methodology pursuant to this section.  
40 In this case, paragraph (2) of subdivision (a) of Section 17553 and

1 Section 17557 shall apply to the test claim. Upon receipt of this  
2 notification, the executive director shall notify the test claimant,  
3 or its designee, of the duty to submit proposed parameters and  
4 guidelines within 30 days under subdivision (a) of Section 17557.

5 (f) If the draft reasonable reimbursement methodology and  
6 proposed statewide estimate of costs, developed pursuant to this  
7 section, for a test claim filed by a local educational agency is not  
8 submitted to the executive director prior to the date specified  
9 pursuant to paragraph (2) of subdivision (b) or by the end of any  
10 extension period provided pursuant to paragraph (2) of subdivision  
11 (c), or if the test claimant, the local educational agency designated  
12 pursuant to subdivision (a) of Section 17557, and the Department  
13 of Finance notify the executive director that no further progress  
14 in developing the reasonable reimbursement methodology is  
15 possible, then all of the following shall be implemented:

16 (1) The executive director shall do the following:

17 (A) Immediately declare that the development of the reasonable  
18 reimbursement methodology is at an impasse, and that binding  
19 arbitration is necessary.

20 (B) Notify the Chief Executive Officer of the Fiscal Crisis and  
21 Management Assistance Team established pursuant to Section  
22 42127.8 or his or her designee, the test claimant, any local  
23 educational agency designated pursuant to subdivision (a) of  
24 Section 17557, and the Department of Finance of the declaration  
25 made pursuant to subparagraph (A).

26 (2) The Chief Executive Officer of the Fiscal Crisis and  
27 Management Assistance Team or his or her designee shall do the  
28 following:

29 (A) Serve as the sole arbitrator of the reasonable reimbursement  
30 methodology impasse.

31 (B) Within 90 days of receiving the notification pursuant to  
32 subparagraph (B) of paragraph (1), mediate or, if necessary,  
33 arbitrate a draft reasonable reimbursement methodology that is  
34 consistent with subdivisions (a) to (d), inclusive, of Section  
35 17518.5, and provide that draft jointly to the test claimant, any  
36 local educational agency designated pursuant to subdivision (a)  
37 of Section 17557, and the Department of Finance.

38 (C) Be deemed to be “an interested party” for the purposes of  
39 subdivision (e) of Section 17518.5.

1 (3) The local educational agency and the Department of Finance  
2 shall do the following:

3 (A) Within 10 days of receiving the notification pursuant to  
4 subparagraph (B) of paragraph (1), provide all available support  
5 materials, including, but not limited to, estimates, local cost  
6 projections, sample information, and input from associations or  
7 other interested parties, to the arbitrator.

8 (B) Upon receipt of the draft reasonable reimbursement  
9 methodology developed pursuant to paragraph (2), develop a  
10 proposed statewide estimate of costs for the initial claiming period  
11 and budget year.

12 (C) Within 30 days of receiving the draft reasonable  
13 reimbursement methodology from the arbitrator pursuant to  
14 subparagraph (B) of paragraph (2), jointly submit to the executive  
15 director the draft reasonable reimbursement methodology and  
16 proposed statewide estimate of costs for the initial claiming period  
17 and budget year.

18 SEC. 4. Section 17560 of the Government Code is amended  
19 to read:

20 17560. Reimbursement for state-mandated costs may be  
21 claimed as follows:

22 (a) A local agency or school district may, by February 15  
23 following the fiscal year in which costs are incurred, file an annual  
24 reimbursement claim that details the costs actually incurred for  
25 that fiscal year.

26 (b) In the event revised claiming instructions are issued by the  
27 Controller pursuant to subdivision (c) of Section 17558 between  
28 November 15 and February 15, a local agency or school district  
29 filing an annual reimbursement claim shall have 120 days following  
30 the issuance date of the revised claiming instructions to file a claim.

31 (c) A local educational agency filing a reimbursement claim,  
32 where reimbursements for that claim are based upon a reasonable  
33 reimbursement methodology developed pursuant to Section  
34 17557.1 and approved pursuant to Section 17557.2, shall provide  
35 with the reimbursement claim a signed certification from the  
36 superintendent attesting to the accuracy of the data used to calculate  
37 the amount claimed under the approved reasonable reimbursement  
38 methodology.

39 SEC. 5. Section 17562 of the Government Code is amended  
40 to read:



1 17562. (a) The Legislature hereby finds and declares that the  
2 increasing revenue constraints on state and local government and  
3 the increasing costs of financing state-mandated local programs  
4 make evaluation of state-mandated local programs imperative.  
5 Accordingly, it is the intent of the Legislature to increase  
6 information regarding state mandates and establish a method for  
7 regularly reviewing the costs and benefits of state-mandated local  
8 programs.

9 (b) (1) The Controller shall submit a report to the Joint  
10 Legislative Budget Committee and fiscal committees by October  
11 31 of each fiscal year beginning with the 2007–08 fiscal year. This  
12 report shall summarize, by state mandate, the total amount of  
13 claims paid per fiscal year and the amount, if any, of mandate  
14 deficiencies or surpluses. This report shall be made available in  
15 an electronic spreadsheet format. ~~The report shall compare the~~  
16 ~~estimated annual cost of each mandate in the preceding fiscal year~~  
17 ~~to the amount determined to be payable by the state for that fiscal~~  
18 ~~year.~~

19 (2) The Controller shall submit a report to the Joint Legislative  
20 Budget Committee, the applicable fiscal committees, and the  
21 Director of Finance by April 30 of each fiscal year. This report  
22 shall summarize, by state mandate, the total amount of unpaid  
23 claims by fiscal year that were submitted before April 1 of that  
24 fiscal year. The report shall also summarize any mandate  
25 deficiencies or surpluses. It shall be made available in an electronic  
26 spreadsheet, and shall be used for the purpose of determining the  
27 state's payment obligation under paragraph (1) of subdivision (b)  
28 of Section 6 of Article XIII B of the California Constitution.

29 (c) The Controller shall notify the appropriate fiscal committees  
30 and the education policy committees in each house of the  
31 Legislature within 30 days of the date upon which the Controller  
32 determines that the total claims for reimbursement filed in a fiscal  
33 year, on any mandate where the test claim was filed by a local  
34 educational agency, exceed the adopted statewide estimate of costs  
35 for that mandate by more than 25 percent.

36 (d) After the commission submits its second semiannual report  
37 to the Legislature pursuant to Section 17600, the Legislative  
38 Analyst shall submit a report to the Joint Legislative Budget  
39 Committee and legislative fiscal committees on the mandates  
40 included in the commission's reports. The report shall make

1 recommendations as to whether the mandate should be repealed,  
2 funded, suspended, or modified.

3 (e) The commission shall notify the appropriate fiscal  
4 committees and the education policy committees in each house of  
5 the Legislature within 30 days of the date upon which a test claim  
6 is filed by a local educational agency, where that local educational  
7 agency submits a written narrative that identifies the effective date  
8 and register number of any regulation alleged to contain a mandate.

9 (f) In its annual analysis of the Budget Bill and based on  
10 information provided pursuant to subdivision (b), the Legislative  
11 Analyst shall report total annual state costs for mandated programs  
12 and, as appropriate, provide an analysis of specific mandates and  
13 make recommendations on whether the mandate should be  
14 repealed, funded, suspended, or modified.

15 (g) (1) A statewide association of local agencies or school  
16 districts or a Member of the Legislature may submit a proposal to  
17 the Legislature recommending the elimination or modification of  
18 a state-mandated local program. To make such a proposal, the  
19 association or member shall submit a letter to the Chairs of the  
20 Assembly Committee on Education or the Assembly Committee  
21 on Local Government, as the case may be, and the Senate  
22 Committee on Education or the Senate Committee on Local  
23 Government, as the case may be, specifying the mandate and the  
24 concerns and recommendations regarding the mandate. The  
25 association or member shall include in the proposal all information  
26 relevant to the conclusions. If the chairs of the committees desire  
27 additional analysis of the submitted proposal, the chairs may refer  
28 the proposal to the Legislative Analyst for review and comment.  
29 The chairs of the committees may refer up to a total of 10 of these  
30 proposals to the Legislative Analyst for review in any year.  
31 Referrals shall be submitted to the Legislative Analyst by  
32 December 1 of each year.

33 (2) The Legislative Analyst shall review and report to the  
34 Legislature with regard to each proposal that is referred to the  
35 office pursuant to paragraph (1). The Legislative Analyst shall  
36 recommend that the Legislature adopt, reject, or modify the  
37 proposal. The report and recommendations shall be submitted  
38 annually to the Legislature by March 1 of the year subsequent to  
39 the year in which referrals are submitted to the Legislative Analyst.

(3) The Department of Finance shall review all statutes enacted each year that contain provisions making inoperative Section 17561 or Section 17565 that have resulted in costs or revenue losses mandated by the state that were not identified when the statute was enacted. The review shall identify the costs or revenue losses involved in complying with the statutes. The Department of Finance shall also review all statutes enacted each year that may result in cost savings authorized by the state. The Department of Finance shall submit an annual report of the review required by this subdivision, together with the recommendations as it may deem appropriate, by December 1 of each year.

(h) It is the intent of the Legislature that the Assembly Committee on Local Government and the Senate Committee on Local Government hold a joint hearing each year regarding the following:

(1) The reports and recommendations submitted pursuant to subdivision (e).

(2) The reports submitted pursuant to Sections 17570, 17600, and 17601.

(3) Legislation to continue, eliminate, or modify any provision of law reviewed pursuant to this subdivision. The legislation may be by subject area or by year or years of enactment.

SEC. 6. Section 17562.5 is added to the Government Code, to read:

17562.5. (a) It is the intent of the Legislature that statutes creating a reimbursable state mandate on local educational agencies be periodically reviewed, and that the Legislature consider recommendations on whether those statutes should be amended, repealed, or remain unchanged.

(b) In addition to the report submitted pursuant to subdivision (c) of Section 17562, at least once in each regular session of the Legislature, the Legislative Analyst shall review and report on each reimbursable state mandate relating to local educational agencies that meets each of the following criteria:

(1) Pursuant to Section 17551, the Commission on State Mandates has determined the existence of a reimbursable state-mandated program.

(2) A claim for reimbursement has been filed with the Controller by a school district, county office of education, or other eligible local educational agency.

(3) The Legislature has not provided an appropriation to fully fund current and pending claims for reimbursement filed with the Controller.

(c) The review and report prepared by the Legislative Analyst pursuant to subdivision (b) shall:

(1) Include all of the following for each mandate:

(A) A summary and its statutory source.

(B) Fiscal information, including, but not necessarily limited to, the claims paid to date, unpaid claims, pending claims, and the history of appropriations for the mandate.

(C) Recommendations as to whether the mandate should be amended, repealed, or remain unchanged.

(2) Be provided to the chairpersons of the Assembly Committee on Education, the Senate Committee on Education, and the fiscal committees of the Assembly and the Senate, on or before the January 1 following the adjournment of the regular session of the Legislature for which the review was made.

~~SEC. 7. Section 17579.5 is added to the Government Code, to read:~~

~~17579.5. (a) Any state-mandated local program that applies to a local educational agency and becomes operative on or after January 1, 2012, shall be inoperative with respect to a local educational agency on the date five years following the operative date of the state-mandated local program.~~

~~(b) Each bill that the Legislative Counsel identifies, pursuant to Section 17575, as imposing a state-mandated local program that applies to a local educational agency shall include a comment in the Legislative Counsel's digest that the state-mandated local program shall become inoperative with respect to a local educational agency on the date five years following the operative date of the state-mandated local program. This subdivision shall not apply to a bill that expressly notwithstands the provisions of this section.~~